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SENATE BILL NO. 788

Offered January 8, 2025

Prefiled December 28, 2024

A *BILL to amend and reenact § 65.2-400 of the Code of Virginia, relating to workers' compensation; injuries caused by repetitive and sustained physical stressors.*

Patron—Head

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-400 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-400. "Occupational disease" defined.

A. As used in this title, unless the context clearly indicates otherwise requires a different meaning, the term "occupational disease" means a disease arising out of and in the course of employment, but not an ordinary disease of life to which the general public is exposed outside of the employment. *Additionally, "occupational disease" includes injuries or diseases from conditions resulting from repetitive and sustained physical stressors, including repetitive and sustained motions, exertions, posture stresses, contact stresses, vibrations, or noises. Repetitive and sustained physical stress is not required to have occurred over a particular period of time, so long as (i) the period of time over which such physical stress occurred can be reasonably identified and documented and (ii) exposure to such repetitive and sustained physical stressors in the course of employment is the primary cause of the injury or disease. For the purposes of this subsection, "primary cause" means accounting for more than 50 percent of an injury or disease. Notwithstanding prior decisions to the contrary, any such injuries or diseases shall be covered if shown to arise out of and in the course of employment as provided in this section.*

B. A disease shall be deemed to arise out of the employment only if there is apparent to the rational mind, upon consideration of all the circumstances:

1. A direct causal connection between the conditions under which work is performed and the occupational disease;

2. It can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment;

3. It can be fairly traced to the employment as the proximate cause;

4. It is neither a disease to which an employee may have had substantial exposure outside of the employment, nor any condition of the neck, back or spinal column;

5. It is incidental to the character of the business and not independent of the relation of employer and employee; and

6. It had its origin in a risk connected with the employment and flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction.

C. Hearing loss and the condition of carpal tunnel syndrome are not occupational diseases but are ordinary diseases of life as defined in § 65.2-401.

INTRODUCED

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